



COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

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**City of Yakima Planning Commission
PUBLIC MEETING/STUDY SESSION**

City Hall Council Chambers

Wednesday April 17, 2013

2:00 pm - 5:00 pm

YPC Members:

**Chair Ben Shoval, Co-Chair Dave Fonfara, Ron Anderson, Al Rose,
Scott Clark, Paul Stelzer, Bill Cook**

City Planning Staff:

**Steve Osguthorpe, Community Development Director/Planning Manager; Bruce Benson, Supervising
Planner; Jeff Peters and Joseph Calhoun, Associate Planners; Chris Wilson, Assistant Planner; and
Rosalinda Ibarra, Planning Technician**

Agenda

**Announcement: This meeting is a study session on the City's Master Program in which the
general public is invited to participate and comment.**

- I. Call to Order**
- II. Roll Call**
- III. General Audience Participation Not Associated with an Item on the Agenda**
- IV. Staff Distribution of Shoreline Materials**
- V. Shoreline Master Program Review**
 - Task#1 - Review Section 17.05.010 Archaeological and Historic Resources**
 - Task#2 - Review Section 17.05.040 Water Quality, Stormwater, and Nonpoint Pollution**
 - Task#3 - Review Section 17.07.010 Agriculture**
 - Task#4 - Review Section 17.07.020 Aquaculture**
 - Task#5 - Review Section 17.07.060 Fill**
 - Task#6 - Review Section 17.07.090 Mining**
 - Task#7 - Review Section 17.07.120 Shoreline Habitat and Natural Systems Enhancement Projects**
 - Task#8 - Review Section 17.07.140 Signs**
- VI. Other Business**
- VII. Adjourn to May 16, 2013**

YAKIMA SHORELINE MASTER PROGRAM

PORTION OF CHAPTER 17.05 – GENERAL REGULATIONS

17.05.010 Archaeological and Historic Resources (All New)

Consultant Note: Designed to meet WAC 173-26-221(1) and Yakama Nation comment letter to City in February 2013.

- A. The City shall require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist. Auger tests may be required before construction and representatives of the Washington State Department of Archaeology and Yakama Indian Nation may be invited to observe any tests and construction work. If auger or historical data indicate probable presence of cultural resources which may be disturbed by excavation, the City shall meet the shoreline permit applicant and may impose conditions on any shoreline permit to assure that such resources are protected, preserved or collected.
- B. Developers and property owners shall immediately stop work and notify the City, the Washington State Department of Archaeology and Historic Preservation, and the Yakama Indian Nation if archaeological resources are uncovered during excavation. Following such notification, the City may follow the provisions of Subsection C.
- C. Where a professional archaeologist or historian, recognized by the State of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, the City may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws.

17.05.0430 Water Quality, Stormwater, and Nonpoint Pollution

Consultant Note: The County SMP has some jurisdiction-wide policies, but most policies are limited to critical areas and buffers and the regulations appear to be applied only to critical areas and buffers. The Consultants propose a more jurisdiction-wide set of regulations based on direction in the SMP Guidelines and relying on locally adopted manuals.

- A. Do not degrade waters. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities or recreational opportunities do not occur and so that there is no net loss of ecological functions.
- B. Requirements for new development.
 1. New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse affects on shoreline ecological functions through the use of best management practices (BMPs) and/or through compliance with the latest edition of the Stormwater Management Manual for Eastern Washington or approved local equivalent if applicable to the project.
 2. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment,

or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

C. Sewage management. To avoid water quality degradation, sewer service is subject to the requirements outlined below.

1. Any existing septic system or other on-site system that fails or malfunctions will be required to connect to an existing municipal sewer service system if feasible, or make system corrections approved by Yakima Public Health.
2. Any new development, business, single-family or multi-family unit will be required to connect to an existing municipal sewer service system if feasible, or install an on-site septic system approved by Yakima Public Health.

D. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals.

E. Low Impact Development (LID). Use of the most current version of the Yakima Region Low Impact Development (LID) Stormwater Design Manual throughout the various stages of development, including site assessment, planning and design, site preparation, construction, and ongoing management, is encouraged.

PORTIONS OF CHAPTER 17.07 – USE-SPECIFIC AND MODIFICATION REGULATIONS

17.07.010 Agriculture

Consultant Note: This section amends the Regional SMP language which is more geared to rural Yakima County. Text is simplified and matched to SMP Guidelines as well as City zoning, which allows most agricultural activities except feedlots.

- A. For Shoreline purposes, WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities. ~~To summarize, existing agricultural activities, including maintenance, repair and replacement of existing facilities, may continue as they historically have and may include changes in crops. New agricultural activities on land not currently in agricultural use are subject to shoreline review. New facilities (roads, buildings, etc.) are subject to shoreline review, or exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.~~
- B. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP.
- C. SMP provisions shall apply in the following cases:
 1. new agricultural activities on land not meeting the definition of agricultural land;
 2. expansion of agricultural activities on non-agricultural lands or conversion of non-agricultural lands to agricultural activities;
 3. conversion of agricultural lands to other uses;
 4. other development on agricultural land that does not meet the definition of agricultural activities; and

5. agricultural development and uses not specifically exempted by the Act.

~~B.D.~~ Confinement feeding operations shall meet the following standards are prohibited.:

~~1. Applicants shall submit a proposed site plan that indicates:~~

- ~~a. Maximum number and type of livestock to be kept on the site;~~
- ~~b. Existing and proposed contour of the land and topographic features;~~
- ~~c. Groundwater profiles, streams and drainage ways;~~
- ~~d. Soil types;~~
- ~~e. Existing and proposed building locations;~~
- ~~f. Waste disposal facilities including: Site runoff storage ponds, location of manure stockpiles, holding tanks and ponds, ultimate manure disposal sites;~~
- ~~g. Other use areas such as feed storage, animal movement routes and animal pens.~~

~~2. A site plan judged by the Administrative Official to be insufficient for the protection of the shoreline environment shall cause denial of the application.~~

E. New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.

G.F. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

~~D. Rangeland livestock grazing may qualify for the exemption from Critical Areas development standards listed in 16D.03.13(2)(b).~~

17.07.020 Aquaculture

The following provisions apply to any development, construction, or use of land or water for aquacultural purposes within Shoreline jurisdiction.

A. All structures located within water-bodies shall not preclude navigability of those waters at any time, and shall be clearly marked so as to provide no hazard to navigation on those waters.

B. Aquaculture facilities shall be designed and located to avoid significant conflict with water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities.

~~B.C. Commercial aquaculture is prohibited. Non-commercial aquaculture that supports recovery of endangered or threatened fish species or supports public or community recreation is encouraged provided it is conducted within the bounds of subsections A and B.~~

17.07.070060 Fill

Consultant Note: The County SMP language was simplified to remove extra details that are covered by more general regulations, and to provide clarity about fills in sensitive areas and in non-sensitive upland areas. Text is better matched to SMP Guidelines.

The following provisions shall apply to filling activities within shorelines:

- A. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.
- B. Permissible fill and excavation in sensitive areas. Fill and excavation within wetlands, floodways, channel migration zones, or waterward of the OHWM shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP, such as:
1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
 2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see Section 17.07.060 of this SMP);
 3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
 4. Ecological restoration or enhancement when consistent with an approved restoration plan; or
 5. Protection of cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes and comply with applicable provisions of Section 17.05.010 of this SMP.
- All fills and excavation waterward of the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a Shoreline Conditional Use Permit.
- ~~B. Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water dependent uses, or an approved reclamation plan under Section 16D.06.23 (Reclamation) or approved compensatory mitigation plan under Section 16D.03.17(13).~~
- C. Permissible upland fill. All other upland fill is permitted, provided it:
1. Is conducted outside applicable buffers, unless specifically allowed in buffers;
 2. Is part of an approved shoreline use or modification, or is necessary to provide protection to cultural or historic resources;
 3. Is the minimum necessary to implement the approved use or modification;
 4. Is planned to fit the topography so that minimum alterations of natural conditions will be necessary;
1. does not adversely affect hydrologic conditions or increase the risk of slope failure; and
 - ~~1-2.~~ is consistent with applicable provisions of Chapter 17.09, particularly regulations governing floodways and 100-year floodplains. Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter.
- ~~C.D.~~ Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream-shoreline corridor area. Other alternatives should shall be preferred over fill to elevate new homes-structures in the floodplain, such as use of pile or pier

~~supports, posts, columns, other zero-rise methods, or increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods.~~

~~D. Fill in floodplains shall meet the requirements of chapter 16D.05 (Flood Hazards).~~

~~E. Pile or pier supports shall be preferred over fill for water dependent uses and facilities.~~

~~F. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality.~~

~~G. Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.~~

~~H.E. Erosion control. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington, or the most recent adopted stormwater manual, shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable. Fill shall be stabilized with native vegetation where appropriate to prevent erosion, migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless technical consultation with other regulating agencies indicates alternative means are required.~~

~~I.F. Projects that propose fill shall make every effort to acquire fill onsite (also known as compensatory storage) where appropriate.~~

~~J. Fill should not obstruct, cut off, or isolate stream corridor features.~~

~~K. Additional Shoreline Standards for Fill—The requirements below shall apply to all filling activities within Shoreline jurisdiction.~~

~~1. Fill projects shall be evaluated for effects on total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat.~~

~~2. Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the Administrative Official to be insufficient for the protection or restoration of the Shoreline environment shall cause denial of a Substantial Development Permit.~~

17.07.110090 Mining

The following provisions shall apply to the commercial mining of gravels within shorelines jurisdiction. Gravel processing and other activities that occur after gravel extraction is an industrial use (see Section 17.07.070):

A. Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:

1. The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation;
2. The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;

3. The description, location, and extent of any proposed subsequent use that would be different than existing uses.
- B. The operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value.
- ~~C. Any surface mining allowed within the floodway shall meet the standards of 16D.05.36.010(1).~~
- ~~D.C.~~ Except where authorized by [the City of Yakima](#) in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:
 1. The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel.
 2. Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM.
 3. Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.
- ~~E.D.~~ Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).
- ~~F.E.~~ Additional Shoreline Standards for Industrial Mining of Gravels - The requirements below shall apply to all mining activities within Shoreline jurisdiction.
 1. Applicants shall submit a mining and reclamation plan to the [Shoreline](#) Administrator describing the proposed site, quantity of material to be removed, method of removal, and measures that will be taken to protect lakes and streams from siltation and sedimentation. A surface mining plan or a reclamation plan judged by the [Shoreline](#) Administrative ~~Official~~ to be insufficient for protection or restoration of the shoreline environment shall cause denial of a [Shoreline Substantial Development Permit](#).
 2. Mining ~~processing activities and~~ stockpiles shall be sited in such a manner so as to avoid damage or loss resulting from flooding.
 - ~~3. Mining processing activities shall utilize existing and/or new vegetation where necessary to minimize visual and noise impacts.~~
 - ~~4.3.~~ New mining and associated activities shall assure that proposed subsequent use of the mined property is consistent with the provisions of the environment designation and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

17.07.120 Shoreline Habitat and Natural Systems Enhancement Projects [NEW SECTION NOT FOUND IN COUNTY'S REGIONAL SMP]

- A. Approved plan. Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.
- B. Protect adjacent resources. All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

- C. Maintenance and monitoring. Long-term maintenance and monitoring (minimum of three years, but preferably longer) shall be arranged by the project applicant and included in restoration or enhancement proposals.
- D. Adverse affects. Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant adverse changes to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
- E. Use of best information and BMPs. Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.
- F. Public use of waters and lands. Shoreline restoration and enhancement shall not interfere with lands or waters dedicated specifically for public use, as determined by the Shoreline Administrator, without appropriate mitigation. For projects on state-owned aquatic lands, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located prior to the solicitation of permits from regulatory agencies.
- G. Permitted. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.
- H. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

17.07.160 Signs

- A. Outdoor advertising signs must conform to size, spacing and lighting provisions of the Washington State Scenic Vistas Act of 1971, where applicable.
- B. Signs shall meet applicable City municipal code requirements regarding size, location, lighting, and other relevant performance standards.
- ~~B-C.~~ Proposals for signage shall submit plans for signage at the time of application for shoreline permits, including shoreline exemptions.
- D. The Shoreline Administrator may condition signage regarding size, illumination, and placement, to ensure that signage is compatible with adjacent shoreline environments and does not significantly obstruct visual access to the water or scenic vistas nor impair driver vision.



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

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CITY OF YAKIMA
PLANNING DIV.

January 31, 2013

Yakima City Council
City of Yakima
129 North 2nd Street
Yakima, WA 98901

Subject: Cultural Resources in the City of Yakima Shoreline Master Program

Dear Yakima City Council:

For millennia the Yakama People have had an intimate knowledge of our environment. We understand the variety and utility of the resources across the diverse landscapes of the ceded and traditional use lands. We expect the resources of cultural value to be preserved and protected for future generations. Some of the sacred foods of the Yakama People include chiish (water), núsux (salmon), pyáxi (bitterroot), lúksh (biscuitroot), sawít (wild carrots), xmáash (camas), and wíwnu (huckleberries). Some sacred animals include pnít (elk), yáamash (deer), anahuy (bear), and xwayamá (eagle).

Archaeological resources are a kind of cultural resource. They are important to the Yakama Nation for their cultural value. Archaeological resources are physical manifestations of our ancestors in the landscape. Archaeological sites contain value to the Yakama People. They demonstrate the variety of activities by our ancestors across the diverse landscapes of Washington. Shorelines were a focus of multiple activities for millennia. Shorelines contain archaeological resources, whether previously recorded or still unrecognized (RCW 27.53.040).

To facilitate the preservation and protection of resources of cultural value across the ceded and traditional use areas of the Yakama Nation, we expect the City of Yakima to utilize a systematic interdisciplinary approach that integrates natural and social sciences [RCW 90.58.100(1)(a)] including archaeological field investigations when permitting all shoreline ground disturbing activities. The varieties of activities indigenous people have engaged in along the shorelines of the City of Yakima demonstrate the historic and cultural values contained in all of the shorelines in the City of Yakima [RCW 90.58.100(2)(g)]. Systematic archaeological field investigations of shoreline developments are necessary to insure that still unrecognized archaeological resources (RCW 27.53.040) are not disturbed.

The Department of Archaeology and Historic Preservation (DAHP) has a confidential database with known archaeological sites. The City of Yakima should enter into an agreement with DAHP for access to the database so that the city can screen every proposed project and

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insure that archaeological sites are not disturbed (RCW 27.53.060). Any project with a known archaeological site must be assessed by a professional archaeologist to determine site boundaries and protection plans. DAHP has created an archaeological predictive model for Washington State. DAHP's model should be used to trigger archaeological surveys whenever any portion of a proposed project includes "high risk" and/or "very high risk" for archaeological resources. Every permit needs to include an archaeological resource incidental discovery clause so the proponent knows what measures must be taken if archaeological resources are discovered during the project.

The Washington State Legislature finds that the resources and ecology of the shorelines should be protected [RCW 90.58.020] and their management is required to be coordinated with affected Indian tribes [WAC 173-26-221(1)(c)(ii)]. This necessitates that a consultation process with the Yakama Nation is established in the City of Yakima Shoreline Master Program.

Shorelines are not the only area to contain cultural value; they are only part of the landscape that is of interest to the Yakama Nation. The Yakama Nation in no way precludes other areas needing investigation and protection for cultural value.

By identifying these areas to the City of Yakima, the Yakama Nation in no way waives its sovereign immunity rights.

Thank you for your time and opportunity to assist in developing the City of Yakima's Shoreline Master Program. I look forward to continuing coordination and cooperation between the Yakama Nation and the City of Yakima staffs to implement resource protection. If there are any questions regarding the nature of these comments, please feel free to contact John Marvin at (509) 966-7406 or 949-2176.

Sincerely,



Philip Rigdon, Deputy Director
Division of Natural Resources

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**CITY OF YAKIMA
PLANNING DIV.**

cc: Cultural Resources Committee Tribal Council
Johnson Meninick, Cultural Resources Program
Kate Valdez, Tribal Historic Preservation Office
John Marvin, Habitat Biologist, YKFP
Allyson Brooks, Ph.D., DAHP
Clynda Case, Central Region Ecology
Shoreline Advisory Committee